

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JUDY KROSHUS, et al.,

Plaintiffs,

v.

UNITED STATES OF AMERICA, et al.,

Defendants.

3:08-cv-0246-LDG-RAM
(Kroshus I)

ALICIA UHOUSE, et al.,

Plaintiffs,

v.

THE UNITED STATES DEPARTMENT OF
THE INTERIOR, et al.,

Defendants.

3:08-cv-0285-LDG-RAM

BILL ADAMSON, et al.,

Plaintiffs,

v.

THE UNITED STATES OF AMERICA,

Defendant.

3:08-cv-0621-LDG-RAM
(Adamson I)

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LARRY J. MOORE, et al.,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendants.

3:09-cv-0167-LDG-RAM

JAMES ADGETT, et al.,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

3:09-cv-0649-LDG-RAM

JUDY KROSHUS, et al.,

Plaintiffs,

v.

UNITED STATES OF AMERICA, et al.,

Defendants.

3:09-cv-0713-LDG-RAM
(Kroshus II)

BILL ADAMSON, et al.,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

3:09-cv-0715-LDG-RAM
(Adamson II)

JASON AMES, et al.,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

3:10-cv-0463-LDG-RAM

1 This order addresses the so-called procedural category of motions argued during the
2 hearing on June 13, 2011, in Reno. The court granted the following motions from the bench
3 during the hearing: the United States' motion to strike jury demand and to strike claims for
4 prejudgment interest and attorneys' fees (#19) in Adgett; the United States' motion to strike jury
5 demand and to strike claims for prejudgment interest and attorneys' fees (#20) in Adamson II; and
6 the United States' motion to strike claims for prejudgment interest and attorneys' fees (#17) in
7 Ames.¹

8 In its motion to dismiss duplicative claims in Adgett (#20), the United States argued that
9 two of the named plaintiffs in Adgett, Hayley McGrath and Hazyn McGrath, were also named
10 plaintiffs in Adamson I, and that one of the named plaintiffs in Adgett, Victoria Lopez Lasane, is
11 also a named plaintiff in Moore. As the United States pointed out during the hearing, the
12 McGraths have since been dismissed from Adgett, and the parties have conceded that Lasane
13 should be dismissed from Adgett. Accordingly, the court will grant the United States' motion to
14 dismiss Lasane in Adgett, and deny as moot its motion to dismiss the McGraths in Adgett.

15 The court also heard arguments and permitted the plaintiffs to file supplemental authorities
16 and the United States to file replies with respect to the United States' motion to dismiss duplicative
17 claims in Adamson II (#21), and procedural aspects of the United States' motion to dismiss in
18 Adamson I (#25) and Adamson II (#23). As to the motion to dismiss duplicative claims, plaintiffs
19 do not dispute that 129 plaintiffs seek the exact same recovery based on the same factual
20 allegations in both Adamson I and Adamson II, but rely on the possibility of consolidation of the
21 Adamson cases as justification for leaving the duplicative claims in place. Even if the cases were
22 consolidated at some future point, which is increasingly unlikely, the duplicative claims would
23 remain in the separate cases. Accordingly, the duplicative claims in Adamson II will be dismissed.

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25 ¹The grant of the motions to strike the jury demands will not prejudice plaintiffs' decision to
26 seek an advisory jury at a later date.

1 In its motion to dismiss in Adamson I (#25), the United States argues in part that 31
2 plaintiffs are identified as minors, and ineligible under Nevada law to be named plaintiffs.
3 Plaintiffs assert that (1) Nevada law permits a parent to maintain an action for the injury of a minor
4 child, (2) the claims in Adamson II adequately state the representative capacity of the parents for
5 the injuries of the minor children, and (3) consolidation of the cases would cure the defect related
6 to the minor children in Adamson I. The cases have not been consolidated, however; and in any
7 event, the representational capacity of the parties must stand independently even if consolidation
8 were to occur in the future. Therefore, the plaintiffs identified as minor children in Adamson I
9 should be dismissed.

10 In its motion to dismiss in Adamson II (#23), the United States argues in part that plaintiffs
11 in that action who are debtors in bankruptcy proceedings are ineligible to continue to prosecute
12 their FTCA claims. James and Denise Spracklin filed for Chapter 7 bankruptcy on June 23, 2008,
13 and on December 30, 2009, the Trustee commenced an adversary proceeding naming the United
14 States. On May 19, 2010, the bankruptcy court entered an order dismissing the United States from
15 the adversary proceeding on the ground that the action must be filed in this court. The United
16 States argues that the Spracklins' claims remain an asset of the bankruptcy estate, and that the
17 Spracklins should be dismissed from Adamson II. Indeed, it appears that the Trustee continues to
18 administer other assets related to the Spracklins' potential recovery under the on-going class action
19 settlements. However, in light of the bankruptcy court's dismissal of the United States from the
20 bankruptcy proceedings and its allowance for the Spracklins to file in this court, which they had
21 done previous to the bankruptcy court's order, the court will not dismiss the Spracklins at this time.
22 The parties may wish to seek further clarification in the bankruptcy court regarding the Spracklins'
23 claims in Adamson II.

24 The United States also argues that Jeremy Gottlieb should be dismissed as a plaintiff from
25 Adamson II because he filed for Chapter 7 bankruptcy in the Southern District of California and
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1 any pre-petition claims remain an estate asset in that proceeding. Plaintiff Gottlieb asserts that the
2 bankruptcy court granted the Trustee's abandonment of his interest in this litigation on January 19,
3 2010. However, as the United States points out, the abandonment of claims approved by the
4 bankruptcy court included those against the irrigation district and builders, agents, and banks in the
5 case, and not specifically those against the United States. Therefore, plaintiff Gottlieb's claims
6 against the United States remain an asset of the bankruptcy estate, and the United States' motion to
7 dismiss him will be granted.


8 THE COURT HEREBY ORDERS that the United States' motion to dismiss Victoria
9 Lopez Lasane in Adgett (#20) is GRANTED, and its motion to dismiss Hayley McGrath and
10 Hazyn McGrath in Adgett (#20) is DENIED as moot.

11 THE COURT FURTHER ORDERS that the United States' motion to dismiss duplicative
12 claims in Adamson II (#21) is GRANTED.

13 THE COURT FURTHER ORDERS that the United States' motion to dismiss plaintiffs
14 identified as minors in Adamson I (#25) is GRANTED.

15 THE COURT FURTHER ORDERS that the United States' motion to dismiss debtors in
16 bankruptcy in Adamson II (#23) is GRANTED as to plaintiff Jeremy Gottlieb and DENIED
17 without prejudice as to plaintiffs James and Denise Spracklin.

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19 DATED this 12 day of August, 2011.

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22 Lloyd D. George
23 United States District Judge
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